

## REMARKS

### **I. Status of the Claims**

Claim 19 is amended to adopt the form of an independent claim, importing the limitations of claim 18, except for the reference to TbRa3, 38kD, and Tb38-1. No new matter is introduced.

### **II. Claim Rejections**

#### Obviousness-Type of Double Patenting

The only remaining rejection in the Office Action of February 13, 2006, is the obviousness-type of double patenting rejection of claim 19, which is allegedly unpatentable over claims 1-3 of U.S. Patent No. 6,592,877 ("the '877 patent"). Applicants respectfully traverse the rejection in light of the present amendment.

The subject matter of claims 1-3 of the '877 patent is an isolated fusion protein comprising four *M. tuberculosis* antigens: TbRa3, Tb38-1, TbH4, and 38kD. As amended, claim 19 is directed to a composition that contains a fusion protein comprising at least two of *M. tuberculosis* antigens selected from the group consisting of MTb81, Mo2, FL TbH4, HTCC#1 (Mtb40), TbH9, MTCC#2 (Mtb41), DPEP, DPPD, TbRa35, TbRa12, MTb59, MTb82, Erd14 (Mtb16), FL TbRa35 (Mtb32A), DPV (Mtb8.4), MSL (Mtb9.8), MTI (Mtb9.9A, also known as MTI-A), ESAT-6,  $\alpha$ -crystalline, and 85 complex. Since the antigens TbRa3, 38kD, and Tb38-1 are no longer within this group, Applicants submit that the composition of claim 19 cannot be obvious over the fusion protein of TbRa3, Tb38-1, TbH9, and 38kD, which is claimed in the '877 patent.

The withdrawal of the obviousness-type double patenting rejection is therefore respectfully requested.

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Amdt. dated May 1, 2006  
Reply to Office Action of February 13, 2006 and Advisory  
Action of October 12, 2005

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**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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